

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

November 5, 2008 Session

**CLAUDE L. GLASS v. STATE OF TENNESSEE EX REL. DEPARTMENT
OF HUMAN SERVICES, ET AL.**

**Appeal from the Chancery Court for Knox County
No. 169811-1 John F. Weaver, Chancellor**

No. E2008-00727-COA-R3-CV - FILED FEBRUARY 27, 2009

Claude L. Glass (“the plaintiff”) filed suit against the Tennessee Department of Human Services (“DHS”) and Lajuana M. Kincaid Thomas. He also secured the issuance of a summons for, and service on, the Knox County Juvenile Court and a deputy clerk of that court, Pamela Netherland. The plaintiff seeks money damages. The gravamen of his complaint is a collateral attack on a final judgment of the Knox County Juvenile Court holding that he is the father of a daughter born to Ms. Thomas. Although the complaint is not entirely clear on this point, he apparently seeks the return of child support paid by him and other damages associated with the judicial finding that he is the father of the subject child. The trial court granted the various parties’ motions to dismiss the complaint, but did so without prejudice as to the complaint against DHS, the Knox County Juvenile Court, and Pamela Netherland; as to Ms. Thomas, the complaint was dismissed “in its entirety.” The plaintiff appeals. We affirm. This is a memorandum opinion pursuant to the provisions of Court of Appeals Rule 10.¹

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court
Affirmed; Case Remanded**

CHARLES D. SUSANO, JR., J., delivered the opinion of the court, in which HERSCHEL P. FRANKS, P.J. and D. MICHAEL SWINEY, J., joined.

Claude L. Glass, Knoxville, Tennessee, appellant, *Pro se*.

¹ Rule 10 of the Rules of the Court of Appeals provides as follows:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion[,] it shall be designated “MEMORANDUM OPINION”, shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

Robert E. Cooper, Jr., Attorney General and Reporter, and Warren A. Jasper, Senior Counsel, Nashville, Tennessee, for the appellee, State of Tennessee Department of Human Services.

David H. Dupree, Knoxville, Tennessee, for the appellee, Lajuana Kincaid Thomas.

John E. Owings and Thomas Mullin, Knoxville, Tennessee, for the appellees, Knox County Juvenile Court and Pamela Netherland, Deputy Court Clerk.

MEMORANDUM OPINION

On March 19, 2000, the juvenile court entered an order finding and holding that the plaintiff was the father of A.H.K., a daughter born to Ms. Thomas on June 14, 1999. The order was not appealed from and, with the passage of time, became final. The plaintiff's suit is essentially a collateral attack on the court order finding parentage and the orders directing him to pay child support and decreeing wage assignments.

The trial court dismissed the complaint against DHS without prejudice "for failure to state a claim and for lack of subject matter jurisdiction." *See* Tenn. R. Civ. P. 12.02(6). Construing the factual allegations of the complaint liberally in favor of the plaintiff, as we must, *see Purcell v. First Am. Nat'l Bank*, 937 S.W.2d 838, 840 (Tenn. 1996), we conclude that the trial court's legal conclusions are correct, *i.e.*, the chancery court was without subject matter jurisdiction to entertain the plaintiff's suit against DHS and no cause of action was stated against the agency because it is immune from suit under the doctrine of sovereign immunity. *See* Tenn. Code Ann. § 20-13-102 (a) (1994); *see also Stewart v. State*, 33 S.W.3d 785, 790 (Tenn. 2000).

With respect to the suit against Ms. Thomas, the complaint is totally lacking in any facts upon which relief could be granted. *See Dobbs v. Guenther*, 846 S.W.2d 270, 273 (Tenn. Ct. App. 1992). Dismissal "in its entirety" as to Ms. Thomas was appropriate.

The plaintiff's "claims" against the Knox County Juvenile Court and Ms. Netherland, neither of which, according to the trial court, were "named in the complaint caption," were dismissed because "[no] allegations of [wrongdoing] were made in the complaint" against these defendants. These claims were dismissed without prejudice. We note that the trial court's interpretation of the complaint is correct. We find no error in the dismissal of these claims.

The judgment of the trial court is affirmed. This case is remanded to the trial court, pursuant to applicable law, for collection of costs assessed there. Costs on appeal are taxed to the appellant, Claude L. Glass.

CHARLES D. SUSANO, JR., JUDGE